9. In § 560.806(d), remove the words "Federal Reserve Bank of New York, Foreign Assets Control Division, 33 Liberty Street, New York, New York 10045" and add, in their place, the words, "Office of Foreign Assets Control".

10. Section 560.807 is revised to read as follows:

§ 560.807 Rules governing availability of information.

(a) The records of the Office of Foreign Assets Control required by the Freedom of Information Act (5 U.S.C. 552) to be made available to the public shall be made available in accordance with the definitions, procedures, requirements for payment of fees, and other provisions of the Regulations on the Disclosure of Records of the Departmental Offices and of other bureaus and offices of the Department of Treasury issued under 5 U.S.C. 552 and published in part 1 of this title.

(b) The records of the Office of Foreign Assets Control required by the Privacy Act (5 U.S.C. 552a) to be made available to an individual shall be made available in accordance with the definitions, procedures, requirements for payment of fees, and other provisions of the Regulations on Disclosure of Records of the Departmental Offices and of other bureaus and offices of the Department of Treasury issued under 5 U.S.C. 552a and published in part 1 of this title.

(c) Any form used in connection with the Iranian Transaction Regulations may be obtained in person from or by writing to the Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

PART 575—IRAQI SANCTIONS REGULATIONS

1. The authority citation for part 575 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; 50 U.S.C. 1601 *et seq.*; 22 U.S.C. 287c; Pub. L. 101–513, 104 Stat. 2047–55 (Nov. 5, 1990); 3 U.S.C. 301; E.O. 12772, 55 FR 31803 (Aug. 3, 1990); E.O. 12724, 55 FR 33089 (Aug. 13, 1990).

Subpart H—Procedures

2. Section 575. 806 is revised to read as follows:

§ 575.806 Rules governing availability of information.

(a) The records of the Office of Foreign Assets Control required by the Freedom of Information Act (5 U.S.C. 552) to be made available to the public shall be made available in accordance with the definitions, procedures, requirements for payment of fees, and other provisions of the Regulations on the Disclosure of Records of the Departmental Offices and of other bureaus and offices of the Department of Treasury issued under 5 U.S.C. 552 and published in part 1 of this title.

(b) The records of the Office of Foreign Assets Control required by the Privacy Act (5 U.S.C. 552a) to be made available to an individual shall be made available in accordance with the definitions, procedures, requirements for payment of fees, and other provisions of the Regulations on Disclosure of Records of the Departmental Offices and of other bureaus and offices of the Department of Treasury issued under 5 U.S.C. 552a and published in part 1 of this title.

(c) Any form used in connection with the Iraqi Sanctions Regulations may be obtained in person from or by writing to the Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Dated: December 19, 1991

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: December 23, 1991

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 92–871 Filed 1–9–92; 11:50 am]

BILLING CODE 4810–25–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD2–91–03]

Drawbridge Operation Regulations; Arkansas River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This action amends the drawbridge operating regulations on the Arkansas River to accurately describe the method to request opening of the lift spans for the Baring Cross Bridge at Mile 119.6, the Junction Bridge at Mile 118.7, and the Rock Island Railroad Bridge at Mile 118.2 when necessary for transit. These changes reflect the creation of a Regulated Navigation Area (RNA) encompassing mile 118.2 to mile 125.4 at Little Rock, Arkansas.

EFFECTIVE DATE: This rule is effective on February 13, 1992.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Second Coast Guard District, 1222 Spruce Street, St. Louis, Missouri, 63103–2832, (314) 539–3724.

SUPPLEMENTARY INFORMATION: On September 26, 1991, the Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** at 56 FR 48770. Interested persons were invited to participate in this rulemaking by submitting written views, comments, data, or arguments no later than November 12, 1991. Five comments were received.

Drafting Information

The drafters of this regulation are Wanda G. Renshaw, Project Officer, Commander(ob), Second Coast Guard District, 1222 Spruce Street, St. Louis, Missouri, 63103–2832, and Lieutenant M.A. Suire, Project Attorney, Commander(dl), 1222 Spruce Street, St. Louis, Missouri, 63103–2832.

Discussion of Regulation

Three vertical lift drawbridges span the Arkansas River in the Little Rock, Arkansas harbor. The Rock Island Railroad Bridge at mile 118.2 is currently maintained in the open position. The Baring Cross Bridge at mile 119.6 and the Junction Bridge at mile 118.7 are maintained in the closed position and are remotely operated by a dispatcher in North Little Rock, Arkansas. The regulations must correctly describe the method used for requesting opening of the draws in light of the RNA established by 3 CFR 165.203.

Discussion of Comments

Of the comments received, two expressed no objection to the proposed changes. The remaining three consist of four separate comments on the proposal. Each is addressed below:

Comment: "For vessels with lower horsepower ratings or unusual situations I think it could be made clearer that they have the right to wait at the lock or cells until the bridges are opened."

This comment appears to pertain to transit during periods of high velocity flow. Once the flow rate reaches 70,000 cubic feet per second at Murray Lock & Dam, all vessels must then comply with the provisions of the RNA established at 33 CFR 165.203, which requires the vessels to transit from mile 125.4 to mile 118.2 unimpeded. This regulation complements 33 CFR 165.203 during high velocity flow by requiring the downbound vessel to coordinate its passage with the remote drawbridge operator and contemplates that this coordination will take place either before the vessel departs Murray Lock & Dam or before departing the mooring cells at mile 121.5. The Coast Guard

acknowledges that the proposal was unclear in this regard and has attempted to clarify the final regulation in paragraph (2).

Comment: "[T]he Rock Island Bridge at Mile 118.2 is maintained in the open position. This bridge is no longer used and does not even have any tracks approaching it any longer."

This comment was received from two separate sources. The Coast Guard has confirmed with the bridge owner that the Rock Island Railroad bridge is presently maintained in the open position, but that the machinery to raise or lower the span is in place although the owner reports it would require mechanical and electrical overhaul to make the machinery fully functional. The Coast Guard recognizes that the likelihood that this bridge will ever be placed in the closed position is low, but believes that the possibility that it may be lowered for some purpose, such as during maintenance or overhaul, requires that appropriate regulations be in place for vessels desiring passage through the bridge to have a means to request that it be opened. The Coast Guard has amended the Discussion of Regulation paragraph above and part 117.123(b) of the proposed regulation to reflect the actual status of the bridge but does not believe any change to the procedures to be used to request opening is warranted.

Comment: "I feel that the wording in part 117.123(b)(1) is adequate and in fact is the way in which this reach is run on a daily basis."

No additional changes to the proposed rule were deemed necessary as a result of this comment and none were made.

Comment: "[T]he regulations you propose should not apply [to retractable pilot house towboats] and we would like this clarified."

The Coast Guard does not believe that the proposed regulation contemplated opening a drawbridge where it was not necessary. If a vessel can operate in, around or through the drawbridges during periods of normal flow or in accordance with the RNA at 33 CFR 165.203 during periods of high velocity flow without requiring the drawbridges to be opened, then the drawbridges need not be opened. The Coast Guard has clarified this common-sense approach in the final rule. No additional changes to the proposed rule were deemed necessary as a result of this comment and none were made.

Economic Assessment and Certification

This regulation has been reviewed under the provisions of Executive Order 12291 and determined not to be a major rule. In addition, this rulemaking is considered to be nonsignificant under the guidelines of DOT Order 2100.5 dated May 22, 1980, Policies and Procedures for Simplification, Analysis, and Review of Regulations. An economic evaluation has not been conducted and is deemed unnecessary as the impact of the proposed action is expected to be minimal. Revising the drawbridge regulations to accurately reflect the method used to request the opening of drawbridges in an RNA is justified. Pursuant to 5 U.S.C. 601, et seq., Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment and Certification

This action has been reviewed by the Coast Guard and has been determined to be categorically excluded from further environmental documentation in accordance with paragraph 2.B.2.g.(5) of the NEPA Implementing Procedures, COMDTINST M16475.1B. A copy of the Categorical Exclusion Document is available for review on the docket.

Federalism Assessment and Certification

This action has been analyzed in accordance with the principles and criteria outlined in Executive Order 12612. It has been determined that this action does not have sufficient federalism implications to warrant preparation of a Federalism Assessment. As noted above, this action amends the method used to request opening of drawbridges located in an RNA.

Collection of Information

This rule contains no collection of information requirement under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*).

List of Subjects in 33 CFR Part 117

Bridges.

Final Regulation

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—[AMENDED]

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05(g).

2. Section 117.123 is amended by revising paragraph (a) introductory text, redesignating paragraph (b) as paragraph (c) and revising the introductory text, and adding a new paragraph (b) to read as follows:

§ 117.123 Arkansas and White Rivers—Automated Railroad Bridges.

(a) Across the Arkansas River, the draw of the Cotton Belt Railroad (Rob Roy) Bridge, Mile 67.4, is maintained in the closed position and is remotely operated. The following signals shall be used:

* * * * *

(b) The draws of the Junction Railroad Bridge at mile 118.7 and the Baring Cross Railroad Bridge at mile 119.6, Arkansas River, at Little Rock, are maintained in the closed position and are remotely operated. The draw of the Rock Island Railroad Bridge at mile 118.2, Arkansas River, at Little Rock, is maintained in the open position. Use the following procedures to request opening of these bridges when necessary for transit;

(1) Normal Flow Procedures. Any upbound or downbound vessel which requires opening the draw of any of these bridges shall establish contact by radiotelephone with the remote drawbridge operator on VHF–FM Channel 13 in North Little Rock, Arkansas. The remote drawbridge operator will advise the vessel whether the requested span can be immediately opened and maintain constant contact with the vessel until the requested span has opened and the vessel passage has been completed. If any or all of the drawbridges cannot be opened immediately, the remote drawbridge operator will notify the calling vessel and provide an estimated time for individual drawbridge openings.

(2) High Velocity Flow Procedures. The area from mile 118.2 to mile 125.4 is a regulated navigation area (RNA) as described in 33 CFR 165.203. During periods of high velocity flow, which is defined as a flow rate of 70,000 cubic feet per second or greater at the Murray Lock and Dam, mile 125.4, downbound vessels which require that the draw of these three bridges be opened for unimpeded passage shall contact the remote drawbridge operator on VHF–FM Channel 13 either before departing Murray Lock and Dam, or before departing the mooring cells at Mile 121.5 to ensure that the Rock Island, Junction,

and Baring Cross Railroad drawbridges are opened. The remote drawbridge operator shall immediately respond to the vessel's call, ensure that all three drawbridges are open for pasage, and ensure that they remain in the open positon until the downbound vessel has passed through each drawbridge. If a closed drawbridge cannot be opened immediately for unimpeded passage in accordance with 33 CFR 163.203, the remote drawbridge operator will immediately notify the downbound vessel and provide an estimated time for drawbridge openings. Upbound vessels shall request openings in accordance with the normal flow procedures as set forth above. The remote drawbridge operator shall keep all approaching vessels informed of the position of the drawbridge spans.

(c) The draw of the Burlington Northern Railroad Bridge, Mile 300.8 Arkansas River at Van Buren, and the Missouri Pacific Railroad Bridge, Mile 7.5 White River at Benzal, are maintained in the open position with a minimum vertical clearance of 52 feet except as follows:

* * * * *

Dated: December 13, 1991.

N.T. Saunders,

Rear Admiral (Lower Half) U.S. Coast Guard, Commander, Second Coast Guard District.

[FR Doc. 92-532 Filed 1-13-92; 8:45 am]

BILLING CODE 4910-14-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1191

[Docket Nos. 90-2, 90-4]

RIN 3014-AA09

Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Correction

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Correction to final guidelines.

SUMMARY: This document contains corrections to the Americans with Disabilities Act (ADA) Accessibility Guildelines for Buildings and Facilities. The guidelines were published to assist the Department of Justice to establish accessibility standards for new construction and alterations in places of public accommodation and commercial facilities covered by title III of the ADA and the Department of Transportation to establish accessibility standards for transportation facilities covered by title II of the ADA.

EFFECTIVE DATE: January 14, 1992.

FOR FURTHER INFORMATION CONTACT: James Raggio, Office of the General Counsel, Architectural and Transportation Barriers Compliance Board, 1111-18th Street, NW., suite 501, Washington, DC 20036. Telephone (202) 653-7834 (Voice/TDD). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On July 26, 1991, the Architectural and Transportation Barriers Compliance Board published the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities in the **Federal Register**. See 56 FR 35408, as corrected at 56 FR 38174 (August 12, 1991). The guidelines appear as an appendix to 36 CFR part 1191. The guidelines were amended on September 6, 1991 to include additional requirements for transportation facilities. See 56 FR 45500 (September 6, 1991). As published, the guidelines contained errors which are corrected by this notice.

Allen B. Clark, Jr.,

Chairman, Architectural and Transportation Barriers Compliance Board.

The following corrections are made in the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities published in the **Federal Register** on July 26, 1991 (56 FR 35408), as corrected on August 12, 1991 (56 FR 38174).

1. On page 35511, page 53 of the appendix to part 1191 is corrected by adding in the first sentence of section 4.30.4 the words "(0.8mm) minimum" after "1/32 in".

2. On page 35520, page 62 of the appendix to part 1191 is corrected by changing the third line in the first column of the table in paragraph (1) of section 7.3 from "8-15" to "9-15".

Pages 53 and 62 of the appendix to part 1191 are republished with the corrections included to read as follows:

BILLING CODE 8150-01-M

4.29 *Detectable* Warnings.

4.29.1 General. *Detectable* warnings *required by 4.1 and 4.7* shall comply with 4.29.

4.29.2* *Detectable* Warnings on Walking Surfaces. *Detectable* warnings shall consist of *raised truncated domes with a diameter of nominal 0.9 in (23 mm), a height of nominal 0.2 in (5 mm) and a center-to-center spacing of nominal 2.35 in (60 mm) and* shall contrast *visually* with *adjoining surfaces, either light-on-dark, or dark-on-light.*

The material used to provide contrast shall be an integral part of the walking surface. Detectable warnings used on interior surfaces shall differ from adjoining walking surfaces in resiliency or sound-on-cane contact.

4.29.3 *Detectable* Warnings on Doors To Hazardous Areas. *(Reserved).*

4.29.4 *Detectable* Warnings at Stairs. *(Reserved).*

4.29.5 *Detectable* Warnings at Hazardous Vehicular Areas. If a walk crosses or adjoins a vehicular way, *and the walking surfaces are not separated by* curbs, railings, or other elements *between the pedestrian areas and vehicular areas*, the boundary between the areas shall be defined by a continuous *detectable* warning *which is* 36 in (915 mm) wide, complying with 4.29.2.

4.29.6 *Detectable* Warnings at Reflecting Pools. The edges of reflecting pools shall be protected by railings, walls, curbs, or *detectable* warnings complying with 4.29.2.

4.29.7 Standardization. *(Reserved).*

4.30 Signage.

4.30.1* General. Signage *required to be accessible by 4.1 shall comply with the applicable provisions of 4.30.*

4.30.2* Character Proportion. Letters and numbers on signs shall have a width-to-height ratio between 3:5 and 1:1 and a stroke-width-to-height ratio between 1:5 and 1:10.

4.30.3 *Character Height.* *Characters and numbers on signs shall be sized according to the viewing distance from which they are to be read. The minimum height is measured using an upper case X. Lower case characters are permitted.*

Height Above Finished Floor	*Minimum Character Height*
Suspended or Projected Overhead in compliance with 4.4.2	*3 in. (75 mm) minimum*

4.30.4* Raised *and Brailled* Characters *and Pictorial Symbol Signs (Pictograms).* Letters and numerals shall be raised 1/32 in (0.8 mm) minimum, *upper case*, sans serif *or simple serif type and shall be accompanied with Grade 2 Braille.* Raised characters shall be at least 5/8 in (16 mm) high, but no higher than 2 in (50 mm). *Pictograms shall be accompanied by the equivalent verbal description placed directly below the pictogram. The border dimension of the pictogram shall be 6 in (152 mm) minimum in height.*

4.30.5* *Finish and Contrast.* *The characters and background of signs shall be eggshell, matte, or other non-glare finish.* Characters and symbols shall contrast with their background — either light characters on a dark background or dark characters on a light background.

4.30.6 *Mounting Location and Height.* *Where permanent identification is provided for rooms and spaces, signs shall be installed on the wall adjacent to the latch side of the door. Where there is no wall space to the latch side of the door, including at double leaf doors, signs shall be placed on the nearest adjacent wall. Mounting height shall be 60 in (1525 mm) above the finish floor to the centerline of the sign. Mounting location for such signage shall be so that a person may approach within 3 in (76 mm) of signage without encountering protruding objects or standing within the swing of a door.*

4.30.7* Symbols of Accessibility.

(1) Facilities and elements required to be identified as accessible by 4.1 shall use the international symbol of accessibility. The

8.0 Libraries

7.3* Check-out Aisles.

(1) In new construction, accessible check-out aisles shall be provided in conformance with the table below:

Total Check-out Aisles of Each Design	Minimum Number of Accessible Check-out Aisles (of each design)
1 – 4	1
5 – 8	2
9 – 15	3
over 15	3, plus 20% of additional aisles

EXCEPTION: In new construction, where the selling space is under 5000 square feet, only one check-out aisle is required to be accessible.

EXCEPTION: In alterations, at least one check-out aisle shall be accessible in facilities under 5000 square feet of selling space. In facilities of 5000 or more square feet of selling space, at least one of each design of check-out aisle shall be made accessible when altered until the number of accessible check-out aisles of each design equals the number required in new construction.

Examples of check-out aisles of different "design" include those which are specifically designed to serve different functions. Different "design" includes but is not limited to the following features - length of belt or no belt; or permanent signage designating the aisle as an express lane.

(2) Clear aisle width for accessible check-out aisles shall comply with 4.2.1 and maximum adjoining counter height shall not exceed 38 in (965 mm) above the finish floor. The top of the lip shall not exceed 40 in (1015 mm) above the finish floor.

(3) Signage identifying accessible check-out aisles shall comply with 4.30.7 and shall be mounted above the check-out aisle in the same location where the check-out number or type of check-out is displayed.

7.4 Security Bollards. Any device used to prevent the removal of shopping carts from store premises shall not prevent access or egress to people in wheelchairs. An alternate entry that is equally convenient to that provided for the ambulatory population is acceptable.

8. LIBRARIES.

8.1 General. In addition to the requirements of 4.1 to 4.35, the design of all public areas of a library shall comply with 8, including reading and study areas, stacks, reference rooms, reserve areas, and special facilities or collections.

8.2 Reading and Study Areas. At least 5 percent or a minimum of one of each element of fixed seating, tables, or study carrels shall comply with 4.2 and 4.32. Clearances between fixed accessible tables and between study carrels shall comply with 4.3.

8.3 Check-Out Areas. At least one lane at each check-out area shall comply with 7 2(1). Any traffic control or book security gates or turnstiles shall comply with 4.13.

8.4 Card Catalogs and Magazine Displays. Minimum clear aisle space at card catalogs and magazine displays shall comply with Fig. 55. Maximum reach height shall comply with 4.2, with a height of 48 in (1220 mm) preferred irrespective of approach allowed.

8.5 Stacks. Minimum clear aisle width between stacks shall comply with 4.3, with a minimum clear aisle width of 42 in (1065 mm) preferred where possible. Shelf height in stack areas is unrestricted (see Fig. 56).

BILLING CODE 8150-01-C

The following corrections are made in the amendment to the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities pertaining to transportation facilities published in the **Federal Register** on September 6, 1991 (56 FR 45500).

1. On page 45524, page 70 of the appendix to part 1191 is corrected by adding in the fifth line of paragraph (4) of section 10.3.2 the word "is" before "within".

2. On page 45524, page 70 of the appendix to part 1191 in the seventh line of Exception 2 to paragraph (4) of section 10.3.2 the words "36 CFR Part 1192" are corrected to read "36 CFR part 1192, or 49 CFR part 38,".

Page 70 of the appendix to part 1191 is republished with the corrections included to read as follows:

BILLING CODE 8150-01-M

10.3.2 Existing Facilities: Key Stations.

(15) Where clocks are provided for use by the general public, the clock face shall be uncluttered so that its elements are clearly visible. Hands, numerals, and/or digits shall contrast with the background either light-on-dark or dark-on-light. Where clocks are mounted overhead, numerals and/or digits shall comply with 4.30.3. Clocks shall be placed in uniform locations throughout the facility and system to the maximum extent practicable.

(16) Where provided in below grade stations, escalators shall have a minimum clear width of 32 inches. At the top and bottom of each escalator run, at least two contiguous treads shall be level beyond the comb plate before the risers begin to form. All escalator treads shall be marked by a strip of clearly contrasting color, 2 inches in width, placed parallel to and on the nose of each step. The strip shall be of a material that is at least as slip resistant as the remainder of the tread. The edge of the tread shall be apparent from both ascending and descending directions.

(17) Where provided, elevators shall be glazed or have transparent panels to allow an unobstructed view both in to and out of the car. Elevators shall comply with 4.10.

EXCEPTION: Elevator cars with a clear floor area in which a 60 inch diameter circle can be inscribed may be substituted for the minimum car dimensions of 4.10, Fig. 22.

(18) Where provided, ticketing areas shall permit persons with disabilities to obtain a ticket and check baggage and shall comply with 7.2.

(19) Where provided, baggage check-in and retrieval systems shall be on an accessible route complying with 4.3, and shall have space immediately adjacent complying with 4.2. If unattended security barriers are provided, at least one gate shall comply with 4.13. Gates which must be pushed open by wheelchair or mobility aid users shall have a smooth continuous surface extending from 2 inches above the floor to 27 inches above the floor.

10.3.2 Existing Facilities: Key Stations.

(1) Rapid, light and commuter rail key stations, as defined under criteria established by the Department of Transportation in subpart C of 49 CFR part 37 and existing intercity rail stations shall provide at least one accessible route from an accessible entrance to those areas necessary for use of the transportation system.

(2) The accessible route required by 10.3.2(1) shall include the features specified in 10.3.1 (1), (4)-(9), (11)-(15), and (17)-(19).

(3) Where technical infeasibility in existing stations requires the accessible route to lead from the public way to a paid area of the transit system, an accessible fare collection system, complying with 10.3.1(7), shall be provided along such accessible route.

(4) In light rail, rapid rail and commuter rail key stations, the platform or a portion thereof and the vehicle floor shall be coordinated so that the vertical difference, measured when the vehicle is at rest, is within plus or minus 1-1/2 inches under all normal passenger load conditions, and the horizontal gap, measured when the vehicle is at rest, is no greater than 3 inches for at least one door of each vehicle or car required to be accessible by 49 CFR part 37.

EXCEPTION 1: Existing vehicles retrofitted to meet the requirements of 49 CFR 37.93 (one-car-per-train rule) shall be coordinated with the platform such that, for at least one door, the vertical difference between the vehicle floor and the platform, measured when the vehicle is at rest with 50% normal passenger capacity, is within plus or minus 2 inches and the horizontal gap is no greater than 4 inches.

EXCEPTION 2: Where it is not structurally or operationally feasible to meet the horizontal gap or vertical difference requirements, mini-high platforms, car-borne or platform mounted lifts, ramps or bridge plates, or similar manually deployed devices, meeting the applicable requirements of 36 CFR part 1192, or 49 CFR part 38, shall suffice.

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[FR Doc. 92-889 Filed 1-13-92; 8:45 am]
BILLING CODE 8150-01-C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB56

Endangered and Threatened Wildlife and Plants; Final Rule to Determine the Plant Schoenocrambe Argillacea (Clay Reed-Mustard) To Be a Threatened Species, and the Plant Schoenocrambe Barnebyi (Barneby Reed-Mustard) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines the plant *Schoenocrambe argillacea* (clay reed-mustard) to be a threatened species, and the plant Schoenocrambe barnebyi (Barneby reed-mustard) to be an endangered species. These two species are endemic to soils derived from specific geologic substrates in the lower elevations of the Unita Basin in northeastern Utah and in the lower elevations of the Fremont River and Muddy Creek drainages in central Utah.

The two know population clusters of *S. argillacea* are vulnerable to habitat disturbance from oil and gas development and potential oil shale development. Significant portions of the two known *S. barnebyi* populations are vulnerable to potential uranium development or trampling by park visitors. This determination that *S. argillacea* is a threatened species and *S. barnebyi* is an endangered species provides these rare plants protection under the Endangered Species Act, as amended.

EFFECTIVE DATE: February 13, 1992.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Fish and Wildlife Enhancement Office, U.S. Fish and Wildlife Service, 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104.

FOR FURTHER INFORMATION CONTACT: John L. England at the above address, telephone: 801/524-4430 or FTS 588-4430.

SUPPLEMENTARY INFORMATION:

Background

Schoenocrambe argillacea was discovered by Duane Atwood in 1976 from a site in the southern portion of the Unita Basin in Uintah County, Utah. Welsh and Atwood (1977) described the species as *Thelypodiopsis argillacea*. *Schoenocrambe barnebyi* was discovered by James Harris in 1980 from a site in the southern portion of the San Rafael Swell in Emery County, Utah. Welsh and Atwood described the species as *Thelypodiopsis barnebyi* (Welsh 1981). Rollings (1982) in reevaluating the cruciferous genera of *Schoenocrambe* and *Thelypodiopsis* move *T. argillacea* and *T. barnebyi* from *Thelypodiopsis* to *Schoenocrambe* as *S. argillacea* and *S. barnebyi*

The genus *Schoenocrambe* includes five currently known species: two are abundant, wide-ranging species, one from the higher dry portions of the Great Plains and the other from the lower elevations of the Colorado Plateau; the remaining three are rare endemic species (*S. argillacea*, *S. barnebyi*, and *S. suffrutescens*) from low elevations of the northern and western portions of the Colorado Plateau in the State of Utah (Rollins 1982, Welsh and Chatterley 1985, Welsh et al. 1987). (Note: *Schoenocrambe suffretescens* (Rollins) Welsh and Chatterly was listed as an endangered species under the scientific name *Glaucocarpum suffretescens* (Rollins). The Service will begin use of the currently accepted scientific name *Schoenocrambe suffretescens* and assign to it the common name shrubby reed-mustard, in order to be in general agreement with current plant classification usage (see Welsh et al. 1987)).

Schoenocrambe argillacea is a perennial herbaceous plant, with sparsely leafed stems 15 to 30 centimeters (cm) (6 to 12 inches) tall arising from a woody root crown. The leaves are very narrow with a smooth margin, 10 to 35 millimeters (mm) (0.4 to 1.4 inches) long and, usually, less than 2 mm (0.1 inch) wide. The leaf blades are alternately arranged on the stem and, for the most part, are attached directly to the stem without a petiole. The flowers of *S. argillacea* have petals that are pale lavender to whitish with prominent purple veins and measure 8 to 11 mm (0.3 to 0.4 inch) long and 3.5 to 4.5 mm (0.14 to 0.18 inch) wide. The entire flowers are about 1 cm (0.4 inch) across in full anthesis and are displayed in a raceme of 3 to 20 flowers at the end of the plant's leafy stems.

Schoenocrambe barnebyi is a perennial herbaceous plant, with sparsely leafed stems 22 to 35 cm (9 to 15 inches) tall arising from a woody root crown. The leaves are entire with a smooth margin, 1.5 to 5 cm (0.6 to 3 inches) long and 0.5 to 2.5 cm (0.2 to 1 inch) wide. The leaf blades are alternately arranged on the stem and are attached to the stem by a petiole. The flowers of *S. barnebyi* have petals that are light purple with prominent darker purple veins and measure about 12 mm (0.4 inch) long and 2.5 mm (0.1 inch) wide. The entire flowers are about 1 cm (0.4 inch) across in full anthesis and are displayed in a raceme of, commonly, 2 to 8 flowers at the end of the plant's leafy stems.

Schoenocrambe argillacea grows on clay soils rich in gypsum, overlain with sandstone talus, derived from a mixture of shales and sandstones from the zone of contact between the Uinta and Green River geologic formation. Plant species commonly associated with *S. argillacea* include *Eriogonum corymbosum*, *Ephedra torreyana*, *Atriplex* spp., and *Artemisia* spp. Two population clusters of *S. argillacea* are known, all within a limited range about 21 kilometers (13 miles) across, from the Green River to Willow Creek in southwestern Uintah County, Utah. The species' total known population is over 5,000 plants (M.A. Franklin, Utah Natural Heritage Program, pers. comm., 1991; U.S. Fish and Wildlife Service 1991). The entire species' population is on land having Federal leases for oil and gas and/or withdrawn for mineral mining claim entry for its oil shale values. Because of this, energy development poses a threat to this species. In addtion, *Schoenocrambe argillacea s* small species population size and restricted distribution make this species inherently vulnerable to man-caused and natural environmental disturbances (U.S. Fish and Wildlife Service 1990).

Schoenocrambe barnebyi grows on red clay soils rich in selenium and gypsum, overlain with sandstone talus, derived from the Moenkopi and Chinle geologic formations. Plant species normally associated with *S. barnebyi* include *Ephedra torreyana*, *Atriplex confertifolia*, *Eriogonum corymbosum*, and *Stanleya pinnata*. Two populations of *S. barnebyi* are known, one near Sy's Butte in the southern portion of the San Rafael Sweel, and one in Capitol Reef National Park in the Sulphur Creek drainage west of Fruita. The species' entire known population is less than 1,000 plants (N. Henderson, Capitol Reef National Park, pers. comm. 1991; Welsh and Neese 1984). Assessment work in connection with mining claims for uranium poses a significant ongoing threat to one population of *S. barnebyi* located on lands managed by the Bureau of Land Management. In addition, at least one site in Capitol Reef National Park containing *S. barnebyi* is vulnerable to trampling by park visitors.

Schoenocrambe barnebyi's extremely small species population size and restricted habital make the species inherently vulnerable to man-caused and natural environmental disturbances (Welsh and Neese 1984).

In the **Federal Register** of December 15, 1980 (45 FR 82480), the Service published a notice of review of candidate plants for listing as endangered or threatened species. The 1980 notice included *S. argillacea* as a category 1 species. Category 1 species comprise those taxa for which the Service has information on the biological vulnerability and threats to support the appropriateness of proposing to list them as endangered or threatened species.

In the **Federal Register** of November 28, 1983 (48 FR 53640), the Service published a supplement to the 1980 notice of review in which *S. barnebyi* was added as a category 2 species. Category 2 comprises taxa for which the Service has information indicating the appropriateness of a proposal to list the taxa as endangered or threatened but for which more substantial data are needed on biological vulnerability and threats. In addition, *S. argillacea* was reclassified as a category 2 species in the 1983 supplemental notice.

On September 27, 1985, the Service published a notice of review (50 FR 39526) replacing the 1980 notice and its 1983 supplement. The 1985 notice of review reclassified *S. barnebyi* as a category 1 species because recent status surveys for *S. barnebyi* (Welsh and Neese 1984) provided additional status information which sufficiently demonstrated the vulnerability of this species. *Schoenocrambe argillacea* remained a category 2 species.

The Service published a notice of review on February 21, 1990 (55 FR 6184), replacing the 1985 notice. This notice maintained *S. argillacea* and *S. barnebyi* in the same categories as in the 1985 notice. Since then, more recent status surveys and reports for *S. argillacea* (Bureau of Land Management 1989a, U.S. Fish and Wildlife Service 1990) provided sufficient additional information for the Service to consider *S. argillacea* to be a category1 species. These and earlier (Welsh 1978, Shultz and Mutz 1979) status surveys and reports for *S. argillacea* and the status surveys for *S. barnebyi* (Heil 1988, Neese 1987, Kass 1990, Welsh and Neese 1984) demonstrated the appropriateness of proposing listing for these two species.

Section 4(b)(3)(B) of the Endangered Species Act (Act) amendments of 1982 requires the Secretary of the Interior to make findings on certain petitions within 1 year of their receipt. Section 2(b)(1) of the Act's amendments of 1982 further requires that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The species in the Service's 1980 notice of review with its 1983 supplement were treated as being petitioned. On October 13, 1983, and each successive year, the Service made successive 1-year findings that the petition to list *S. argillacea* and *S. barnebyi* was warranted but precluded by other listing actions of higher priority. The Service published a proposed rule in the **Federal Register** on April 12, 1991, proposing endangered status for these two species. That proposal constituted the final 1-year finding for these species in accordance with Section 4(b)(3)(B)(ii) of the Act.

Summary of Comments and Recommendations

In the April 12, 1991, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal Agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices concerning this proposed action were published in The Salt Lake Tribune, the Deseret News, the Uintah Basin Standard, and the Emery County Progress during the period May 4 to May 8, 1991, which invited general public comment. During the comment period, three commenters responded—one commenter provided written comments and two commenters provided verbal comments. The commenter providing written comments supported listing *S. barnebyi* as endangered. The two commenters providing verbal comments (which were followed by more extensive written comments) questioned the listing of *S. barnebyi* and opposed the listing of *S. argillacea* at this time. Comments received are discussed below.

Comment 1: The initial results of a 1991 inventory for *S. argillacea* sponsored by the Bureau of Land Management revealed significant additional populations of the species, and the species may have a population of least twice that mentioned in the proposed rule.

Service response: Upon completion, the aforementioned inventory of *S. argillacea* estimated over 5,000 plants, as compared to the earlier estimate of 2,000 plants reported in the proposed rule, which was obtained from the Schultz and Mutz (1979) report. A significant population was discovered in the Kings Canyon drainage on the west side of Wild Horse Bench, which is a minor range extension of 1 to 3 miles to the north of previously identified suitable habitat. Nine additional stands were discovered within the known population between the Green River and Wild Horse Beach. The populations in the Willow Creek drainage remained much the same as previously known, with minor extensions of some stands. The historic stand in the southern portion of section 26, T. 11 S. R. 20 E. has apparently been extirpated. These data indicate that the known occurrences of *S. argillacea* constitute two population clusters: one near the Green River between Wild Horse Bench and the Green River, the other in the Willow Creek Drainage on the northern slopes of Big Mountain and in Broome Canyon. These additions to the *S. argillacea* species population are significant.

Through the intensive inventor conducted in 1991 has discovered more plants, it also has confirmed that *S. argillacea* is restricted to two small areas. All occurrences of *S. argillacea* are on Federal oil and gas lease areas and/or oil shale withdrawal areas.

The 1991 inventory has provided a better database upon which to base a listing decision. While the recent inventory has demonstrated that *S. argillacea* is more abundant than previously reported, it also has demonstrated that despite intensive inventory efforts, the species is still rare.

The most significant additional stands discovered in 1991 were located in an area that the author of this rule had previously identified to the biologist conducting the 1991 inventory as an area with reasonably high potential to be *S. argillacea* habitat. After the initial success obtained by searching this area, no additional significant stands of *S. argillacea* were discovered elsewhere. This strongly suggests that the criteria used by the Service to identify potential *S. argillacea* habitat are highly correlated with *S. argillacea* distribution. Based on the limited occurrence of these specific geologic substrate and topographic exposure parameters, the 1991 inventory is suspected to have located the great majority of existing *S. argillacea* sites.

Taking the above into account, in addition to the information in Comments 2 and 3, the Service has decided that it would be more appropriate to list *S. argillacea* as threatened, rather than as endangered as originally proposed. Because the species' known populations are found only on Bureau of Land Management lands with oil, gas, and oil shale potential, this rare plant will

always be vulnerable to the threat of habitat loss or disturbance due to energy development. Though candidate species status carries some weight within the Bureau of Land Management in terms of conserving the species, it cannot legally ensure that Federal actions are not likely to jeopardize *S. argillacea*.

Listing this species as threatened does not preclude future energy development in its habitat. Listing ensures that proposed energy extraction operations that may affect *S. argillacea* on Federal lands are reviewed, and where necessary, actions are implemented so as to avoid jeopardy to this rare plant.

Comment 2: The habitat of *S. argillacea* is over lower grade oil shale deposits that are considered marginal for future oil shale development. There are currently no plans for development of these oil shale reserves.

Service response: The Service takes note of the fact that habitat disturbance threats from oil shale development are not imminent and has revised the rule accordingly. However, much of the species' habitat is over lands with good potential for oil and gas development. There is increasing oil and gas activity in this area, and care should be taken to avoid harming *S. argillacea* populations.

Comment 3: The location of *S. argillacea* populations on steep slopes makes the species unlikely to be disturbed by oil and gas development activities.

Service response: The location of the species on steep slopes provides some protection from direct impacts of oil and gas development activity but does not necessarily provide protection from indirect impacts. Construction of access roads and possible disposal of construction spoils into the species' occupied areas are potential threats to some populations of this species. In fact, the Service received word that a proposed well pad development was recently visited where, unknowingly, plans had been made to dispose of construction spoils onto a site containing *S. argillacea*.

Comment 4: The range and population of *S. barnebyi* may be greater than currently known, and listing should be delayed until more surveys are completed.

Service response: Several recent studies and inventories which have surveyed known populations of *S. barnebyi* as either the sole or a principle study objective (See "Background" and "References Cited") have shown the species to be very rare and restricted in distribution, with a high degree of inherent vulnerability. In the proposed rule, the species' population was estimated to be 2,000 plants. However, information received during the comment period indicates that a more accurate estimate would be less than 1,000 plants. The scientific data available at this time indicates that it is appropriate to list this species as endangered.

Comment 5: Populations of *S. barnebyi* in Capitol Reef National Park are secure from any human-caused adverse action.

Service response: The occurrence of populations of a rare, unlisted species within a national park does not necessarily ensure complete protection of those populations from adverse impacts. The populations of *S. barnebyi* within the park are much smaller than reported in the proposed rule and at least one site is susceptible to trampling by park visitors. The National Park Service is concerned about the status of *S. barnebyi* within Capitol Reef National Park and strongly supports listing the species as endangered. Listing will focus additional attention and resources on the species to ensure its survival into the future.

Comment 6: There is no active uranium development activity in the habitat of *S. barnebyi*.

Service response: The small population of *S. barnebyi* on land managed by the Bureau of Land Management is on a current mining claim. The Mining Act of 1872 requires on-the-ground mining assessment work on all current claims. Given the extremely small size of the know species' population, such assessment work, even if of a minor nature, could result in major impacts to this population.

Comment 7: The policy of the bureau of Land Management is to conserve candidate species, such as these plants, consistent with the principles of multiple-use management. This policy protects candidate species.

Service response: The Service acknowledges the positive efforts of the Bureau of Land Management in the conservation of these and other candidate plants. However, the Bureau of Land Management's written comment acknowledges that this policy does not provide candidate species the (same) protection afforded listed species. The identification of a species as a candidate species is a temporary measure until the Service is prepared to propose the species for listing as either threatened or endangered or to remove the species from further active consideration for listing. After reviewing the best available data, the Service has decided that these species require the protection of the Act in order to avoid extinction or endangerment throughout all or a significant portion of their range, and, therefore, has listed *S. barnebyi* as endangered and *S. argillacea* as threatened.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Schoenocrambe argillacea* should be classified as threatened and *Schoenocrambe barnebyi* should be classified as endangered. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *S. argillacea* (Welsh and Atwood) Rollins and *S. barnebyi* (Welsh and Atwood) Rollins are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

All known populations *S. argillacea* are on Federal lands leased for their oil and gas energy reserves. The species is vulnerable to surface disturbing activity associated with energy development within its habitat (Welsh 1978, U.S. Fish and Wildlife Service 1990). There has been an increase in oil and gas exploratory activity in the species' habitat, which could lead to development in the foreseeable future. In addition, the entire range of *S. argillacea* is underlain by oil shale, which may be mined when economic conditions favor it. Recent inventories for rare plants in the range of *S. argillacea* have demonstrated a small population and restricted range for this species. The species has an estimated population of over 5,000 individuals in two small areas about 12 km apart. One stand has apparently become extirpated since its discovery in 1979 (U.S. Fish and Wildlife Service 1991).

The primary threat to *S. barnebyi* is habitat destruction associated with potential uranium mining activity. The single hillside where the species occurs in its San Rafael Swell population has an access road bulldozed across it with mining prospects near the species' limited distribution. Portions of the species' habitat lie within six mining claims at Sy's Butte, which require annual assessment work which could further degrade the species' habitat. The

workings of one of the largest uranium mines in the San Rafael Swell are only a mile away on the same exposure of geologic strata as *S. barnebyi* (U.S. Fish and Wildlife Service 1985). The species' highly restricted distribution and very small population make the species highly vulnerable to any activity which would disturb its habitat (Welsh and Neese 1984).

Capitol Reef National Park provides some protection to the small *S. barnebyi* population within its borders, though one site is currently being impacted by visitor trampling. The species also is vulnerable to any activity, including road and recreational developments, which may occur on its national park habitat.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization for these purposes is not presently known. However, take or vandalism could have a serious impact on these species, given their small population numbers. Because of this, the Service recommends against publicizing these species' location, other than to land managers.

C. Disease or Predation

Sheep and cattle grazing may have had an impact on *S. argillacea* and *S. barnebyi* historically, but with current levels of grazing intensity and grazing management by the Bureau of Land Management, domestic livestock grazing is not expected to significantly impact these species.

D. The Inadequacy of Existing Regulatory Mechanisms

There are no Federal, State, or local laws or regulations that address these species specifically or directly provide for the protection of their habitat. The Bureau of Land Management and the National Park Service are aware of both *S. argillacea* and *S. barnebyi* and have considered them in environmental planning of their habitat areas (Bureau of Land Management 1984, Bureau of Land Management 1989b, National Park Service 1982). All plants within Capitol Reef National Park are protected by regulation from taking; this, however, has not been identified as a threat to *S. barnebyi*, provided the species' location is not publicized. *Schoenocrambe barnebyi* would still be vulnerable to other activities within Capitol Reef National Park, such as road and recreational development. Any conservation activity undertaken by Federal Agencies would be voluntary. Federal Agencies are not legally obligated to conserve *S. argillacea* and *S. barnebyi* unless these species are listed.

E. Other Natural or Manmade Factors Affecting Their Continued Existence

Most sites of *S. argillacea* contain less than 200 individuals and the species has been extirpated from one of these sites (U.S. Fish and Wildlife Service 1991). The San Rafael Swell population of *S. barnebyi* has fewer than 100 individuals and the four sites in Capitol Reef National Park have 200 or fewer plants each. Some sites may hold so few plants that they may not be demographically stable in the medium to long term. Some of the smaller site populations of both *S. argillacea* and *S. barnebyi* may be lost as a result of natural variation in population numbers in the short term. The effects of past habitat degradation on the species' ability to respond to environmental stress is not known but may be critical to the species' future existence. Only the larger sites of *S. argillacea* may have sufficient genetic variability to provide for long-term adaptation to natural changes in their environmental conditions.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *S. argillacea* and *S. barnebyi* in determining to make this rule final. Based on this evaluation, the preferred action is to list *S. argillacea* as a threatened species and *S. barnebyi* as an endangered species. Both species are rare endemics restricted to specific areas having potential for being exploited for energy resources or subject to other disturbances. These species' rarity and their limited distribution also make them inherently vulnerable to environmental perturbations.

Schoenocrambe barnebyi is extremely rare, and known threats place it in danger of extinction throughout a significant portion of its range. Therefore, *S. barnebyi* qualifies as endangered as defined by the Act. The status of threatened does not reflect the biological vulnerability of *S. barnebyi* populations.

Schoenocrambe argillacea is not currently in danger of extinction throughout all or a significant portion of its range. However, its small population size, limited distribution, and location on Federal lands subject to oil, gas, and oil shale development make it likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Therefore, it qualifies as threatened as defined by the Act. For the reasons given below, it is not considered prudent to designate critical habitat.

Critical Habitat

Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for these species at this time because the benefits of publicizing critical habitat are outweighed by added dangers. Publication of critical habitat is not in the best interest of these species. The rarity of these species and their restricted range make these plants particularly vulnerable to taking. With respect to endangered plants on Federal lands, taking is only regulated by the Act in cases of removal and reduction to possession or their malicious damge or destruction on such lands. Such provisions are difficult to enforce.

Adding these plants to the List of Endangered and Threatened Plants publicizes their rarity and thus can make them attractive to curiosity seekers or expose them to potential vandalism. Though prohibited by the Act, taking and vandalism are difficult to control on the ground. At least one of the sites containing *S. barnebyi* located in Capitol Reef National Park is vulnerable to trampling by park visitors. Because *S. argillacea* is located on steep slopes, visitation for purposes of viewing could increase slope erosion, which could be detrimental. Publication of critical habitat descriptions and maps would make it easier for various parties to locate and/or take the plants.

The principal land managers have been notified of the location of these species and are aware of the importance of protecting these species' habitat. Protection of these species' habitat will be addressed through the recovery process and the section 7 jeopardy standard. Any Federal action that would impact these plants' habitat would necessarily affect the plants themselves (being immobile, rooted organisms) and would be reviewed during section 7 consultation. The Service finds that designation of critical habitat is not presently prudent for these two plant species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in

conservation actions by Federal, State, Indian, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal Agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal Agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal Agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal Agency must enter into formal consultation with the Service.

The known populations of *S. argillacea* and *S. barnebyi* are on Federal lands under either the jurisdiction of the Bureau of Land Management or the National Park Service. The Bureau of Land Management, in addition, is responsible for the leasing of minerals under Federal jurisdiction. Both of the Federal Agencies would be responsible for ensuring that Federal land uses and actions are not likely to jeopardize the continued existence of *S. argillacea* and *S. barnebyi*.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, 17.63, 17.71, and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all endangered and threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 and 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale these species in interstate or foreign commerce, or to remove and reduce to possession these species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for endangered plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few, if any, trade permits would ever be sought or issue for *S. argillacea* and *S. barnebyi* because these species are not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, room 432, 4401 North Fairfax Drive, Arlington, Virginia 22203–3507, telephone (703) 358–2093 or FTS 921–2093.

National Environmental Policy Act

The U.S. Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this rule is John L. England, botanist, U.S. Fish and Wildlife Service, Salt Lake City, Utah (801/524–4430 or FTS 588–4430, see **ADDRESSES** above).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Brassicaceae, to the List of Endangered and Threatened Plants:

§ 17.12 **Endangered and threatened plants.**

(h) * * *

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Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	
Brassicaceae—Mustard Family:						
*	*	*	*	*	*	
Schoenocrambe argillacea	Clay reed-mustard	U.S.A. (UT)	T	457	NA	NA
Schoenocrambe barnebyi	Barneby reed-mustard	U.S.A. (UT)	E	457	NA	NA
*	*	*	*	*	*	

Dated: December 30, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

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